

Seattle
City Light

Memorandum



DATE: April 20, 1990

TO: Gary L. Farr, Manager, Property Management
Original Signed By

FROM: Kirvil Skinnarland, Director, EAD

SUBJECT: Review of proposed lease #230404-2-409 (Lease to the Boeing Company of land adjacent to Duwamish Substation)

Gary, my staff has reviewed the proposal for lease of property near the Duwamish substation. We have identified several environmental review and resource impact concerns for this area. These concerns and our recommendations are described below.

SEPA Review

Review under the State Environmental Policy Act (SEPA) would apply both to our lease of the land and to the project-specific plans that the Boeing Company has. Paragraph 3.1(b) mentions that the planned development of the land is likely to use substantial amounts of electricity: Our understanding is that the Boeing Company would in fact require approximately 80-200 MW. This is clearly a significant impact, one which will require the preparation of an environmental impact statement (EIS). Any agreement with the Boeing Company should require Boeing to prepare an EIS which will evaluate energy impacts and develop mitigation measures (conservation, interruptible load contracts, etc.) to address the impacts. Failure to require this could lead to the City having to prepare an EIS in Boeing's stead.

Separate from the project-specific review is a review of a change in the use of our land. With a commitment from Boeing to prepare a project-specific EIS the City could prepare an environmental checklist and Declaration of Nonsignificance (DNS). There are, however, several issues which would have to be addressed and mitigated:

1) Fisheries--The Duwamish River and its tributaries support important runs of several anadromous fish species; two treaty tribes (Muckleshoot and Suquamish) assert rights for these fish. However, the environment of the lower Duwamish, due to the accumulated impacts of the 20th century, is notably devoid of habitat to support juvenile fish prior to their migration out to the sea. Our property north of the substation has the

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potential to provide some badly needed fish enhancement for the Duwamish area.

The potential for fish enhancement at our property was recognized by the Army Corps of Engineers in its Duwamish Waterways Navigation Improvement Study and EIS (1983). It would recontour the shoreline 4-5 acres to provide shallow water habitat between -8 and +8 feet MLLW. (Map, photo, and description from the EIS are attached, and the area is outlined on the map which accompanied the lease proposal.)

While the Corps' project will likely never occur, the potential for fish enhancement is a valuable opportunity which the City should retain. The tribes and agencies are extremely interested in such measures in the Duwamish area, and they still remember this particular proposal. (They made reference to it during discussions of our rehabilitation of the bulkhead a few years ago.) This could be of tremendous importance to us should the Federal Energy Regulatory Commission require the licensing of the Cedar Falls Project. An offer to develop this enhancement site could be of great value in negotiations with the tribes and agencies.

Because we have never evaluated this proposal in any depth we cannot assess whether all of the land proposed by the Corps would in fact be required. However, such a project would clearly require more than the 200-foot shorelines area. We recommend reserving all or most of the area indicated on the map for future use by the City for fisheries enhancement, and removing it from consideration for leasing. Further, we recommend a stipulation in the lease agreement that the Boeing project would not adversely affect or hinder such enhancement or management of the enhancement. If Property Management would still like to explore the lease of this area, and finds that reservation of the recommended block for fisheries would cause difficulties, then a meeting of our staffs would be appropriate. If a better definition of the area to be reserved for fisheries were necessary EAD would need to initiate a work order to have a specialist evaluate the needs of the proposal.

2) Recreation and Public Access--The City has responsibilities, through its shorelines permit for the bulkhead rehabilitation, for a recreational trail along the shoreline adjacent to the substation. However, we have no formal responsibilities for such use north of the substation. The county, as part of its Duwamish recreational planning and bicycle path planning, has indicated interest in the area north of the substation. This matter would need to be

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clarified with the county prior to completion of a checklist and leasing of the property.

3) Pollutants and Hazardous Substances--Section 8 of the lease agreement clearly favors Boeing's interests over the City's interests. For example, responsibility for fines and initial response and cleanup assignment are not clearly specified. Lease provisions to provide greater protection of the City's interests and that provide grounds for cancellation of the lease agreement, if necessary, need to be incorporated as follows:

a) First, prior notification should be required for any proposed site improvements that involve discharges of substances from the site, storage of liquid fuels, or use of asbestos, solvents or hazardous materials on the property. Essentially, what should be required is a detailed statement of proposed operations that identifies all types of hazardous materials that will be handled, used, collected, stored, treated, controlled, removed, cleaned up, or disposed of at the site. Boeing operations that cause or allow any activity which might directly or indirectly result in violation of existing or future rules, laws or regulations, including licensing and zoning laws should not be authorized. The City should also request a copy of any permits issued to Boeing in connection with this lease. Once property uses have been established, Boeing should not be allowed to change its use of the property without prior written consent by the City. Failure to notify the City of changes in property use should be listed as grounds for cancellation of the lease.

b) Second, the City should ensure that it will have access to the property at all times during the lease period for purposes of conducting compliance audits or responding to emergencies that involve spills or releases of hazardous materials. The lease should clearly state that it is Boeing's responsibility to prevent and respond to all emergency events; however, since the City is ultimately liable for any environmental contamination problems, it must reserve the right to enter the property and take any corrective measures that it deems necessary in order to comply with applicable regulations. A logical extension of this provision is that Boeing be required to reimburse the City for the full amount of all costs incurred in such circumstances. Again, significant compliance violations would be considered grounds for termination of the agreement.

c) Third, upon expiration or termination of the lease the property should be reexamined to ensure that no contamination

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has occurred during Boeing's lease term. This would include a report to document the results of the final assessment; the final report would be distributed to both parties for joint review and comment. In addition, a separate agreement should be established that would allow the City to recover damages for contamination discovered after expiration or termination of the lease. It would be prudent to require that Boeing post a bond or establish an escrow fund that could be used to cover the cost of potential contamination problems. Such a measure would act as a disincentive to irresponsible or careless handling of wastes by Boeing. The initial site assessment design and report should also be reviewed by both parties; SCL should have the opportunity to comment on the sampling plan. The draft lease simply states that Boeing will conduct an audit and provide "relevant" data to the City. The City should actively participate in the assessment design and should insist on reviewing and commenting on the contents of the report.

5) Other Stipulations--In addition to the substantive issues outlined above, the draft lease agreement needs several other revisions. Section 8.3 (b) Lessee's Use of the Premises, should cite the Clean Water Act, which prohibits discharge of pollutants (including petroleum products) and prevents thermal pollution of water (i.e. discharge of superheated water). Paragraph 8.3 (b)(1) Hazardous Substances, should be amended to require notification of City Light of any hazardous materials subject to regulation under the Resource Conservation and Recovery Act (RCRA), Occupational Safety and Health Act (OSHA) or the Superfund Amendment and Reauthorization Act (SARA); the current lease only lists the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Hazardous substances that will be used on the property and that are identified by these acts should be included in the statement of proposed operations.

If you have any questions regarding these comments please contact Richard Rutz (386-4576) or Christy O'Quinn (386-4584).

RR:

Attachments

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cc: w/attachments
Hagen
EAD 826.01, 861

cc: w/o attachments
Skinnarland
Best
Kakida
Kurko
Rutz
O'Quinn
File

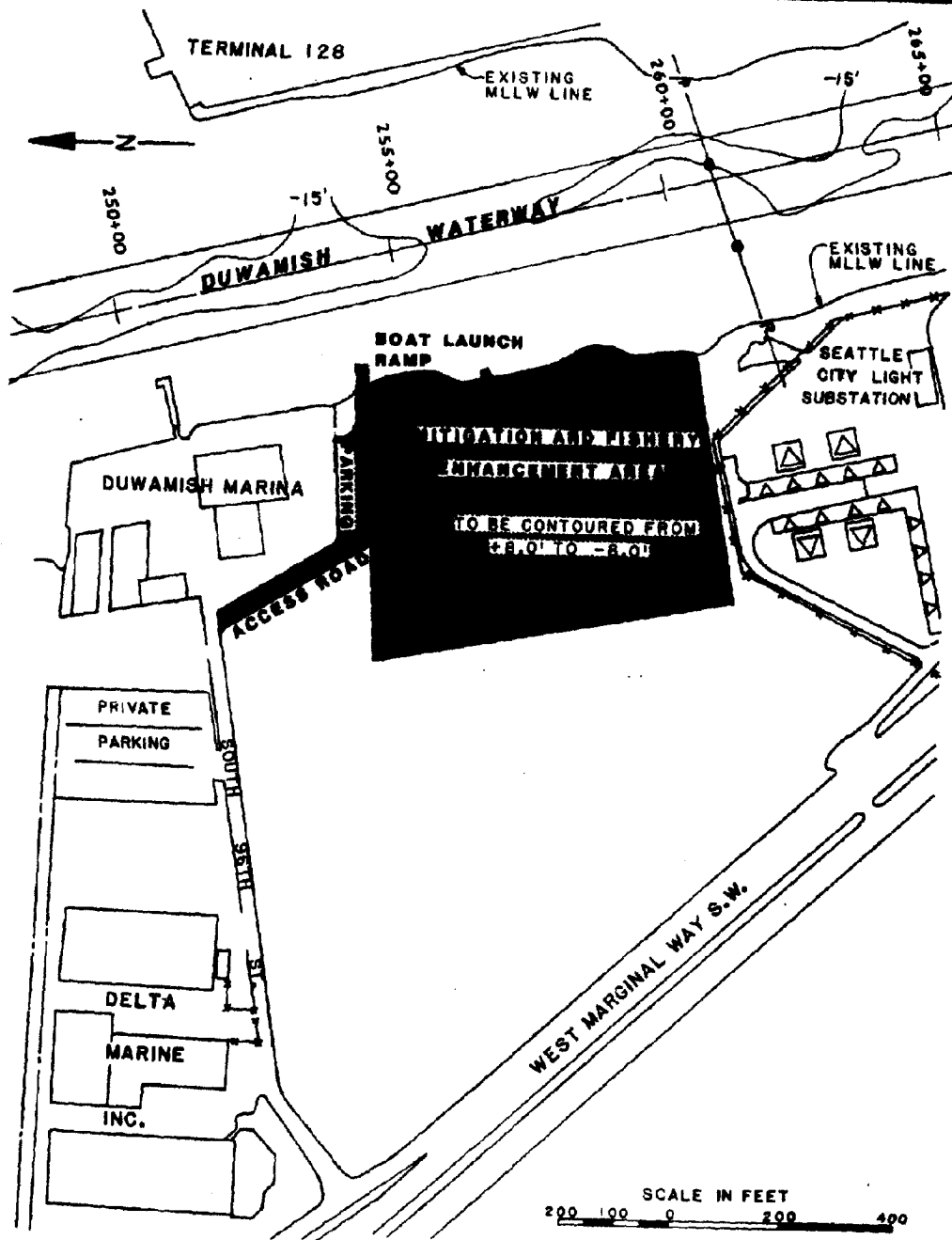
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CORPS OF ENGINEERS

U. S. ARMY



**DUWAMISH WATERWAY, PROPOSED MITIGATION,
PUBLIC ACCESS, AND FISHERY ENHANCEMENT AREAS**

U. S. GOVERNMENT PRINTING OFFICE: 1975 704 511

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Island local access bridge which will replace the existing south span of the Spokane Street Bridge. The new bridge will provide a minimum 250-foot-horizontal channel clearance.

b. Mitigation. The loss of approximately 4 acres of shallow water habitat between +8 feet and -8 feet MLLW due to project dredging and disposal would be mitigated through the acquisition of approximately 5 acres of property along the left bank of the Duwamish Waterway near the head of navigation (see plates 2 and 8, main report, for location). The mitigation area would be developed to provide 4 acres of replacement habitat between +8 feet and -8 feet MLLW. Rock riprap would be placed along transition slopes for stabilization. Approximately 98,000 c.y. of material would be removed from the site during its development. The material would be disposed by bottom dump barge at the Fourmile Rock disposal site unless material is found to be unsuitable for open-water disposal. Figure D2-12 shows a plan view of the mitigation site.

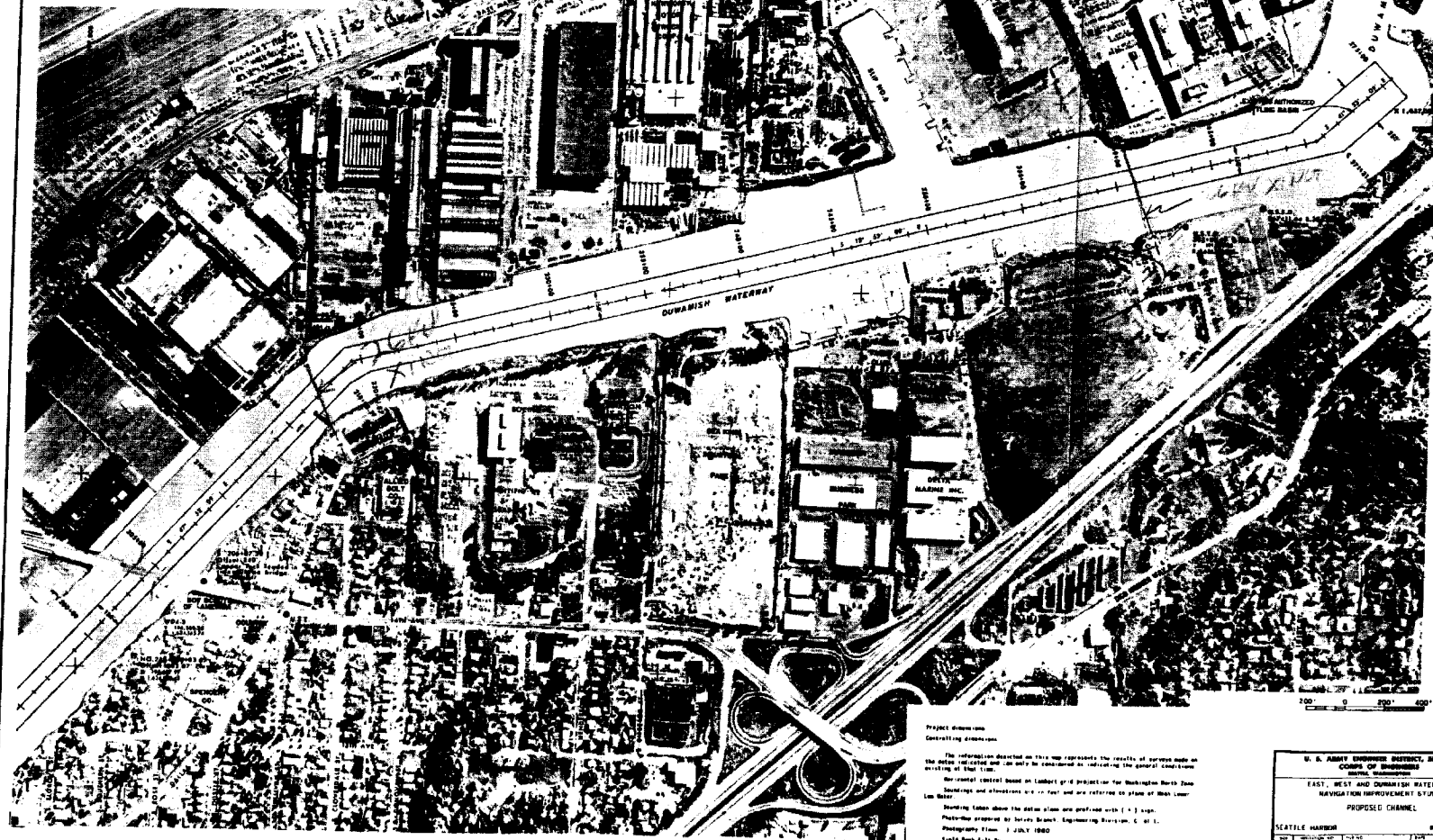
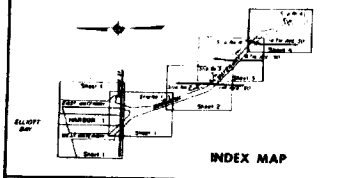
The loss of deepwater habitat due to disposal in the slip between piers 90 and 91 would be mitigated by construction of an artificial reef in the vicinity. Reef form, area, and location would be decided during CP&E based on state-of-the-art knowledge of productivity and reef design. The cost estimates in tables D3-2 and D3-3 provide for up to a 12-acre reef to compensate for the loss of fish productivity at the piers 90 and 91 disposal site.

c. Fishery Enhancement. In addition to the 4 acres of shallow water replacement habitat provided for mitigation, an additional 2 acres of shallow water habitat would be created at the same site as an enhancement feature for the local fishery. Approximately 50,000 c.y. of material would be removed during this additional development. The dredged material would also be disposed of at the Fourmile Rock site by bottom-dump barge unless found unsuitable for open-water disposal. Figure D2-12 shows a plan view of the enhancement site.

d. Public Access. Development of a public access area involves acquisition of one-half acre of land adjacent to the mitigation and fishery enhancement area as shown on figure D2-12. The access would involve the construction of an access road, parking for 8 to 10 car-trailer combinations, and a single lane boat launch ramp. Two thousand c.y. of material would need to be removed in constructing the boat launch ramp. The dredged material would be disposed by bottom-dump barge at the Fourmile Rock disposal site unless found unsuitable for open-water disposal.

2.09 Nonstructural Measures. Present safety practices such as limiting vessel speed through the Pigeon Point Reach and utilization of the U.S. Coast Guard Vessel Traffic Surveillance (VTS) system should be continued to minimize the potential for head-on encounters and to reduce the possibility of shore erosion and damage to moored ships and pleasure boats due to ship wakes.

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PROJECT DESCRIPTION
 Controlling dimension
 The information depicted on this map represents the results of surveys made on the water and control and can only be considered as indicating the general conditions existing at that time.
 No control based on Lambert grid projection for Washington North Zone
 Soundings and elevations are in feet and are referred to plane of Mean Low Water
 Low Water
 Soundings taken above the datum plane are prefixed with (+) sign.
 Photo was prepared by Service Branch Engineering Division 2, at 1.
 Photography taken 2 JULY 1960
 Field Book File No.

U. S. ARMY ENGINEER DISTRICT, SEATTLE CORPS OF ENGINEERS ENGINEERING DISTRICT			
EAST, WEST AND DUWAMISH WATERWAYS NAVIGATION IMPROVEMENT STUDY			
PROPOSED CHANNEL			
SEATTLE HARBOR	DATE	BY	REVISION
1	12 2 1 83	SEPT 1960	1
Drawn by: BULLMAN	Checked by: S. KIMBLE	Scale: 1" = 400'	

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